

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

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In re:

DOWLING COLLEGE
fdba DOWLING INSTITUTE
fdba DOWLING COLLEGE ALUMNI ASSOCIATION
fdba CECOM
aka DOWLING COLLEGE, INC.,

Case No. 16-75545-reg
Chapter 11

Debtor.
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ORDER SCHEDULING HEARING ON
COURT’S SUA SPONTE MOTION TO RECONSIDER FEES AWARDED TO
SILVERMANACAMPORA LLP

By Order, dated February 17, 2017 [ECF No. 206], this Court approved the retention of SilvermanAcampora LLP (“SilvermanAcampora”) to represent the Official Committee of Unsecured Creditors (“Committee”).

During the case, the Committee was granted the authority to pursue and prosecute any and all claims and causes of action of the Debtor’s estate. [ECF No. 611].

By Order, dated December 20, 2018, this Court confirmed the Debtor’s First Amended Chapter 11 Plan of Liquidation (“Plan”) [ECF No. 640]. Prior to confirmation of the Plan, the Committee had commenced no litigation on behalf of the estate.

In a final fee application [ECF No. 678] filed with the Court and approved by Order, dated June 7, 2019 (“Final Fee Order”) [ECF No. 717], SilvermanAcampora billed the estate a total of \$840,791 for representing the Committee in this case, including \$293,683 billed for “litigation.”

Pursuant to the confirmed Plan, an Unsecured Creditor Trust was established to litigate, post-confirmation, any and all causes of action of the Debtor or its estate, including but not limited to avoidance actions and claims against the Debtor’s pre-petition accountant, officers and directors. [ECF No. 650]. The Unsecured Creditor Trust is also tasked with objecting to claims under section 9.15 of the Plan.

Ronald J. Friedman, a partner at SilvermanAcampora (“Unsecured Creditor Trustee”), undertook the role of trustee of the Unsecured Creditor Trust for which services he is entitled to a monthly fee of \$6,000. SilvermanAcampora now represents the Unsecured Creditor Trust.

It was reported to this Court at a hearing held on April 1, 2019, that the Unsecured Creditor Trustee has decided not to pursue any avoidance actions in this case, the Unsecured Creditor Trustee had not, at that point, initiated litigation against the insiders for fear of depleting

available insurance proceeds, and the claims against the Debtor's pre-petition accountants would proceed to mediation and then arbitration without any litigation commenced in this or any other court, based upon the Unsecured Creditor Trustee's desire to minimize litigation costs.

On June 14, 2019, the Unsecured Creditor Trustee filed a Motion to Extend the Deadline to Object to Claims ("Motion to Extend"). [ECF No. 718]. The Motion to Extend states that because the Unsecured Creditor Trust was funded with only \$300,000, of which a minimum of \$150,000 is earmarked for distribution to unsecured creditors, unless the Unsecured Creditor Trust is successful in recovering funds from actions against the officers and directors and accountants, there will be limited funds available to pay the \$56 million in filed claims. The Unsecured Creditor Trustee, therefore, determined it to be a prudent use of his limited resources to defer review of and/or object to claims.

Now therefore, it is

ORDERED, that at a hearing will be held on July 15, 2019 at 1:30 p.m. in Courtroom 860 of the Alfonse M. D'Amato Federal Courthouse, at which this Court will *sua sponte* reconsider the Final Fee Order pursuant to 11 U.S.C. § 105(a), Fed. R. Bankr. P. 9024 and Fed. R. Civ. P. 60(b), and it is further

ORDERED, that pending the hearing, no distributions will be made to SilvermanAcampora on account of the Final Fee Order, and it is further

ORDERED, that any written response to the relief proposed by this Order shall be filed with the Court on or before July 8, 2019, and it is further

ORDERED, that the clerk shall give notice of this Order to the Unsecured Creditor Trustee, his counsel, counsel for the Debtor, and the Office of the United States Trustee on or before June 19, 2019.

**Dated: Central Islip, New York
June 18, 2019**



A handwritten signature in black ink, reading "Robert E. Grossman".

**Robert E. Grossman
United States Bankruptcy Judge**